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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,507	03/10/2004	Steven E. Boor	8354/96255	3966

22242 7590 03/04/2010  
FITCH EVEN TABIN & FLANNERY  
120 SOUTH LASALLE STREET  
SUITE 1600  
CHICAGO, IL 60603-3406

EXAMINER
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OLANIRAN, FATIMAT O

ART UNIT	PAPER NUMBER
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2614

MAIL DATE	DELIVERY MODE
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03/04/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* STEVEN E. BOOR

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Application No. 10/797,507  
Technology Center 2600

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Mailed: March 3, 2010

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Before DEBORAH L. PERRY *Supervisory Paralegal Specialist, ReviewTeam.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on January 11, 2010. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

**APPEAL BRIEF, SUMMARY OF CLAIMED SUBJECT MATTER**

Appellant filed an Appeal Brief dated April 24, 2009. The Appeal Brief is not in compliance with 37 C.F.R. § 41.37(c) effective September 13, 2004.

According to 37 C.F.R. § 41.37(c)(v), an Appeal Brief must include the following:

(v) *Summary Of Claimed Subject Matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which must refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of 37 CFR 41.37(c)(1)(vii), every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The “Summary of claimed subject matter” appearing on pages 7-8 of the Appeal Brief filed April 24, 2009, is deficient because it does not refer to the specification for independent claims 1, 15 and 20. Correction is required.

MPEP § 1205.03 states in part:

(B) When the Office holds the brief to be defective solely due to appellant’s failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office’s requirement will result in

dismissal of the appeal. See MPEP § 1215.04 and § 711.02(b).

## CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) hold the Appeal Brief filed April 24, 2009, defective, as required by 37 CFR § 41.37(d);
- 2) notify the Appellant to submit a “paper” which corrects the Appeal Brief’s Summary of Claimed Subject Matter under 37 CFR §41.37(c)(1)(v);
- 3) acknowledge and consider any “paper” submitted by Appellant to correct the Appeal Brief; and
- 4) for such further action as may be required.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DP/dw

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